

JUN 27 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 11-90133

ORDER

KOZINSKI, Chief Judge:

A pro se prisoner has filed an incoherent and rambling complaint against a district judge, apparently claiming that the judge improperly dismissed his civil rights case and shouldn't have entered a strike against him pursuant to 28 U.S.C. § 1915(e)(2)(B). This allegation relates directly to the merits of the judge's rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant also alleges that the district judge "failed to ensure there was a policy and procedure that was adequate" for providing mentally disabled litigants with counsel. That, too, is a merits issue that must be pursued, if at all, by way of appeal. Complainant does not claim, and certainly fails to prove, that the judge discriminated against him on the basis of mental disability, which might have brought him closer to the proper realm of a misconduct complaint. Because

complainant does not allege conduct “prejudicial to the effective and expeditious administration of the business of the courts,” his charge must be dismissed. See Judicial-Conduct Rule 11(c)(1)(A).

DISMISSED.